

**AGENDA**  
**TRAVERSE CITY BOARD OF ZONING APPEALS**  
**REGULAR MEETING**  
**TUESDAY, OCTOBER 13, 2015**  
**7:00 P.M.**  
**Committee Room, Governmental Center, 2<sup>nd</sup> Floor**  
**400 Boardman Avenue**  
**Traverse City, Michigan 49684**  
**231-922-4464**

- 1. CALL MEETING TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES-** Approval of the September 8, 2015 regular meeting minutes.
- 4. REQUEST 15-BZA-11 – A REQUEST FROM MARY BETH KELLEY-LOWE, 410 FIFTH STREET, TRAVERSE CITY, MICHIGAN for:**

A dimensional variance to allow for a new attached garage to be located 2.8 feet from the side (east) property line located at the property mentioned.

- 5. PUBLIC COMMENT**
- 6. OTHER BUSINESS**
- 7. ADJOURNMENT**

The City of Traverse City does not discriminate on the basis of disability in the admission or access to or treatment or employment in, its programs or activities. Penny Hill, Assistant City Manager, 400 Boardman Avenue, Traverse City, Michigan, 49684, 922-4481, T.D.D., 922-4412, has been designated to coordinate compliance with the non-discrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the ADA Coordinator. If you are planning to attend and you have a disability requiring any special assistance at the meeting and/or if you have any concerns, please immediately notify the ADA Coordinator.

**MINUTES  
TRAVERSE CITY BOARD OF ZONING APPEALS  
REGULAR MEETING  
TUESDAY, SEPTEMBER 8, 2015  
7:00 P.M.  
Committee Room, Governmental Center, 2<sup>nd</sup> Floor  
400 Boardman Avenue  
Traverse City, Michigan 49684  
231-922-4464**

**PRESENT:** Members Raferty, Hanley, Carol, Matson, Bergman, Donaldson and Vice-Chairperson Callison.

**ABSENT:** Members Szajner, Wegener and Chairperson Cockfield.

**1. CALL MEETING TO ORDER**

*The meeting was called to order at 7:00 p.m.*

**2. APPROVAL OF MINUTES-** Approval of the June 9, 2015 regular meeting minutes.

*Motion by Member Donaldson, seconded by Member Bergman to approve the June 9, 2015 regular meeting minutes as presented. Upon vote the motion carried 7-0.*

**3. REQUEST 15-BZA-10 – A REQUEST FROM ROBERT AND ELIZABETH CALLAGHAN, 444 SOUTH EAST BAY BOULEVARD, MICHIGAN for:**

A dimensional variance to allow for a new detached garage to be 1 foot, 4 inches from the rear (west) property line and 2 feet from the side (north) property line located at the property mentioned.

*Bob Veraker, 1155 Hemingway Lane, Traverse City, Michigan, Architect for Robert and Elizabeth Callaghan presented drawings and answered questions from the Board.*

*Public comment was opened.*

*Daniel Burnes, 446 South East Bay Boulevard, Traverse City, Michigan, spoke in favor of granting the variance.*

*Lawrence Stoltz, 434 South East Bay Boulevard, Traverse City, Michigan, spoke in favor of granting the variance.*

*Motion by Vice-Chairperson Callison seconded by Member Carol to grant a dimensional variance to allow for a new detached garage to be 1 foot, 4 inches from the rear (west) property line and 2 feet from the side (north) property line located at the property commonly known as 444 South East Bay Boulevard, Traverse City Michigan based on the Statement of Conclusions and Finding of Fact contained in the Order Granting for Variance No. 15-BZA-10. Upon vote the motion carried 7-0.*

**4. CONSIDERATION OF ADOPTING RULES AND PROCEDURES FOR THE CITY OF TRAVERSE CITY BOARD OF ZONING APPEALS.**

*Motion by Member Donaldson, seconded by Member Matson to adopt the Rules and Procedures for the City of Traverse City Board of Zoning Appeals as presented. Upon vote the motion carried 7-0.*

**5. PUBLIC COMMENT**

*None.*

**6. OTHER BUSINESS**

*None.*

**7. ADJOURNMENT**

*The meeting was adjourned at 7:20 p.m.*

David Weston, Planning and Zoning Administrator

Date: \_\_\_\_\_

**CITY OF TRAVERSE CITY  
ORDER AUTHORIZING  
VARIANCE NO. 15-BZA-10**

Pursuant to the City of Traverse City Code of Ordinances § 1324.05(d), Variances, the Board of Zoning Appeals hereby authorizes a dimensional variance for the following:

Street Address: 444 South East Bay Boulevard, Traverse City, Michigan.  
Property Description: LOT 14 & THT PRT OF LOT 13 DES AS BEG AT NW COR OF LOT 13 TH E 69.71 FT TH SW'LY 68 FT TO A PT ON W LINE OF LOT 13 4 FT S OF NW COR TH NW'LY TO POB KEZIS MOKESA ADD ALSO THT PRT OF SEC 1 GOV LOT 4 T27N R11W LYING DIRECTLY E OF ABOVE DESC PARCEL & E BAY BLVD S BOUNDED ON E BY E GT BAY & ON W BY E BAY BLVD S HAVING EXCLUSIVE RIPARIAN RIGHTS ONLY  
Variance Granted: A dimensional variance to allow for a new detached garage to be 1 foot, 4 inches from the rear (west) property line and 2 feet from the side (north) property line.  
Applicant/Owner: Robert and Elizabeth Callaghan.

It is determined that the Applicant has demonstrated a hardship as well as showing of good and sufficient cause authorizing a variance by the City of Traverse City Code of Ordinances. The findings of fact and reasons upon which this determination is based are as follows:

1. The attached Statement of Conclusions and Finding of Fact are incorporated herein by reference.
2. The procedures and requirements for variance decisions by law and ordinance have been followed.

This Order shall not be deemed to be City approval for anything other than the variance authorized by this Order and shall not relieve the owner or occupier of the land from obtaining any other license, permit or approval required by law or ordinance.

I hereby certify that the above Order was adopted on \_\_\_\_\_, \_\_\_\_\_, at a regular meeting of the Board of Zoning Appeals for the City of Traverse City at the County Committee Room, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.

Date: \_\_\_\_\_

\_\_\_\_\_  
David Weston, Planning and Zoning  
Administrator

**Note:** A decision of the Board of Zoning Appeals shall be final. However, any party having a substantial interest affected by an order, determination or decision by the Board of Zoning Appeals may appeal to the Circuit Court, if made to the Court within twenty-eight (28) days after rendering the final decision or upon grant by the Court of leave to appeal. Codified Ordinances of Traverse City Michigan.

## STATEMENT OF CONCLUSION AND FINDINGS OF FACTS 15-BZA-10

The following are the Statements of Conclusions supported by evidence submitted to the Board of Zoning Appeals in connection with a request for a dimensional variance, Request No. 15-BZA-10, for the property commonly known as **444 South East Bay Boulevard**, Traverse City, Michigan.

- (A) In granting the variance, the spirit of the Zoning Code is observed, public safety is secured and substantial justice is done based on the following facts:

*The existing residence at 444 S. East Bay Blvd., originally constructed in 1910 before zoning regulation was in place, on an unimproved, unmaintained alley to the west rear yard is the only lot within the block without a detached/attached garage.*

*The new garage built in the proposed location due to its proximity to property lines would be constructed with fire rating considerations. Furthermore new garage and driveway slabs would be built to improve adequate access from the alley to the rear portion of the lot and provide positive drainage away from all structures than current conditions allow.*

*Per the State of Michigan Court of Appeals decision No.282701 from the Ottawa Circuit Court, the homeowner per the phrase "'substantial property right' as used in the ordinance encompasses the right to build a garage on property regulated for residential use." Granting the variance on this narrow, uniquely defined site allows the homeowner the same right all other homes in the area enjoy.*

- (B) There will be no substantial adverse effect on property values in the immediate vicinity or in the district where the property is located will occur as a result of granting this variance based on the following facts:

*Granting the variance allows the homeowners to build an adequate one car garage with storage with architectural features that complement the existing residence and will increase property values and conform to other properties in the area.*

*The existing alley is irregular with a fence that encroaches into the right of way giving the perception that the rear lot is larger and will not adversely impact the view from the alley.*

*The neighbor immediately to the north at 440 East Bay Blvd. has given his approval after reviewing the plans.*

- (C) The difficulty presented by the applicant in support of the request for a variance is not so general or recurrent in nature that a formulation of a general regulation for such condition is preferable based on the following fact:

*All the homes on this block were constructed well to the rear of their respective lots. The existing home is in non-compliance of its current rear yard setback and with the narrowness of the parcel, leaves no room to consider an attached garage.*

- (D) The practical difficulty or hardship is unique to the property and not to the general neighborhood and shall apply only to property under control of the applicant based on the following fact.

*444 S. East Bay Blvd., is the only lot on the block without a garage.*

- (E) Granting the variance is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district based on the following fact:

*Homes located in the surrounding neighborhood have existing garages. The variance requested would allow the construction of a bare minimum sized garage while preserving the openness of the alley.*

- (F) There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably put to a use authorized by the Zoning Code based on the following fact:

*Homes located in the surrounding neighborhood have existing garages. The variance requested would allow construction of a bare minimum sized garage while preserving the openness of the alley.*

- (G) The difficulty is not solely economic and is based on the reasonable use of a particular parcel of land based on the following fact:

*The dimensional variance is not for financial gain but rather to address the practical matter of housing a car and storing yard tools.*

- (H) The difficulty was not the result of an act of the applicant or a person in privity or concert with the applicant based on the following fact:

*The narrowness of the lot and location of the existing home along with access considerations from the century old alley has driven the design so that*

*adequate room between structures, positive groundwater drainage can be provided.*

DRAFT



## Communication to the Board of Zoning Appeals

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FOR THE MEETING OF: OCTOBER 13, 2015

FROM: DAVID WESTON, ZONING ADMINISTRATOR *DMW*

SUBJECT: REQUEST 15-BZA-11

DATE: OCTOBER 9, 2015

You have a request from Mary Beth Kelley-Lowe, **410 Fifth Street**, Traverse City, Michigan for relief from the zoning laws (§1332.04(4)) to construct a 271 square foot attached garage (12'-4" x 22') in the side yard setback located at the property mentioned.

The property mentioned is zoned R-1b (Single Family Dwelling District) and the attached garage is required to have a minimum side yard setback of 10.6 feet. The applicant would like to construct a new attached garage which will be 2.8 feet from the side (east) property line. Mrs. Kelley-Lowe will be requesting a dimensional variance for the side yard setback encroachments.

The applicant has responded on how they meet the basic conditions for granting a variance.





City of Traverse City

APPLICATION FEE: \$240.00	Date of Application: <u>9-22-15</u>
Check Number: <u>1917</u>	Date of Public Hearing: <u>10-13-15</u>
Receipt Number: <u>18107</u>	Case Number: <u>15-B2A-11</u>

**TRAVERSE CITY BOARD OF ZONING APPEALS  
APPLICATION**

for Variance, Exception, Appeal, Ordinance Interpretation or  
Reconsideration

**PROPERTY DESCRIPTION** (legal description AND property address): 410 Fifth Street, Traverse City, MI 49684 - Lots 28 and West 15 feet of Lot 27,  
Block 3 Hannah Lay & Co's 10th Add.  
Tax Parcel ID: 51-654-006-00

**REQUEST AND PROPOSED PROJECT:**

Request for a variance to the side setback requirements in Zone R-1b to allow for a single-car garage  
addition. Variance required due to physical constraints - i.e. lack of alley, grade change/retaining wall  
on site, and current placement of house on site.

**TO BE COMPLETED BY ZONING ADMINISTRATOR:**

Request: Appeal for Administrative Decision \_\_\_\_\_  
Interpretation of Ordinance \_\_\_\_\_  
Exception \_\_\_\_\_  
Variance \_\_\_\_\_

Name: Mary Beth Kelley-Lowe Phone: (218)791-2608 Fax: \_\_\_\_\_

Address: 410 Fifth Street, Traverse City, MI 49684

Signature of Owner: *Mary Beth Kelley-Lowe*

Signature of Applicant (if different): *Jeffrey Schwaninger*

Relationship of Applicant to Owner: Design Contractor

**APPLICATIONS MUST BE RECEIVED A MINIMUM OF 21 DAYS PRIOR  
TO THE MEETING AT WHICH THE REQUEST WILL BE CONSIDERED.**

**REPRESENTATION AT HEARING:** THE APPLICANT OR THE APPLICANT'S  
AUTHORIZED AGENT MUST BE PRESENT AT THE PUBLIC HEARING TO  
PROPERLY ANSWER QUESTIONS CONCERNING THE APPEAL. IF THE  
APPLICANT OR AGENT IS NOT PRESENT, THE APPEAL MAY BE DEFERRED  
UNTIL THE NEXT MEETING OR DISMISSED AT THE DISCRETION OF THE BOARD.  
\*\*\* PLEASE NOTE THE REVERSE SIDE FOR SITE PLAN REQUIREMENTS \*\*\*

September 21, 2015

The City of Traverse City  
Board of Zoning Appeals  
400 Boardman Avenue  
Traverse City, MI. 49684

**RE: Scott and Mary Beth Lowe Residence**

**410 Fifth Street, Zoning District: RI-b**

Hearing for variance regarding construction of new one-car attached garage requesting dimensional relief from prescribed east side yard setback

Itemized list of responses to Board of Appeals Chapter 1324.05 Powers & Duties pertaining to subsection (d) variance language:

**(d) Variances.** The Board shall have the power to authorize specific variances or departures from this Zoning Code, if all of the basic conditions are satisfied, and if there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Zoning Code. A variance from the dimensional requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is a practical difficulty in carrying out the requirement. A variance from the use requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is an unnecessary hardship created by those use restrictions.

**(1) Basic conditions.** Any variance granted from this Zoning Code shall meet the following basic conditions:

(A) The spirit of this Zoning Code shall be observed, public safety secured and substantial justice done.

**Response:**

1. A variance to the side yard setback would allow the homeowner to build an attached, one-car garage with a second parking space in front which is consistent with the other houses on the block. Currently, 410 Fifth Street is one of two houses on the block without a garage.
2. The new garage would be built according to current building codes with fire rating considerations due to its proximity to neighboring lots/structures. The construction and use of the new garage would also allow the owner to vacate the use a unique on-street parking area that disrupts the street verge/curb in front of the house. This

would allow for safer street cleaning and plowing by the City as well as improved street appearance.

3. Per the State of Michigan Court of Appeals decision No.282701 from the Ottawa Circuit Court, the homeowner per the phrase “‘substantial property right’ as used in the ordinance encompasses the right to build a garage on property regulated for residential use” has the right to build a garage. Granting this variance on this narrow, uniquely defined property allows the homeowner the same right all other homeowners in the area enjoy.

(B) There is no substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.

**Response:**

1. The construction of an attached garage and new front porch at 410 Fifth Street with significant architectural features that are consistent with the historic character of the neighborhood will significantly add to the value of the property, which will generally benefit property values in the neighborhood.
2. The property to the east (406 Fifth Street) will not adversely be affected by the construction of a new attached garage and front porch. The garage addition may actually provide additional privacy for the property. 406 Fifth Street is a double lot that maintains general access to the rear of the property from the east side of their lot (not adjacent to the proposed attached garage at 410 Fifth Street)

(C) The difficulty or hardship relating to the property is not so general or recurrent in nature that the formulation of a general regulation for such conditions is preferable.

**Response:**

1. While all lots on the block face the hardship of the lack of an alley, 410 Fifth Street is unique in terms of the narrowness of the lot. It is the narrowest lot on the block. 410 Fifth Street is a 40' wide lot, while the other lots on the block range from 50' to 75' wide.
2. There is also a 5' to 6' concrete retaining wall supporting a significant grade change from the front of the property to the back of the property, which prevents the garage from being placed to the rear of the house. The retaining wall is actually connected to the foundation walls of both 410 Fifth Street and 406 Fifth Street making its removal difficult. This condition appears to be unique to this property.
3. Most other properties on the block already have garages. The one lot that does not appears to have a significant distance between the house and side lot line to accommodate a garage while still meeting the setback requirements.

(D) The practical difficulties or unnecessary hardships are unique to the property under consideration and not to the general neighborhood, and shall apply only to property that is under the control of the applicant.

**Response:**

1. Response is same as response to condition (C) above.

(E) It shall be necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

**Response:**

1. A variance to the side-yard setback dimension is necessary for the construction of a garage on the property which is a right enjoyed by most of the houses on the block and which is allowed in Zone R-1b. The east side yard of 410 Fifth Street is the only reasonable location for a garage on the property because of the lack of an alley and the grade limitations noted above. The proposed single-car attached garage is very modest in dimension (exterior wall would be 12'-3" beyond existing exterior house wall) but would still require a variance to the side-yard setback.
2. Also see response 3 to condition (A).

(F) There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code.

**Response:**

1. Because of the hardship created by the location of Kids Creek (and its floodplain) in the rear yard, the lack of an alley, the narrowness of the lot, and the grade change/retaining wall in the side yard, the proposed location is the only reasonable location for a garage on the property. Therefore a variance is required for the use of a garage.

(G) The alleged hardship or difficulty is not solely economic, and is based on the reasonable use of a particular parcel of land.

**Response:**

1. As stated above, the hardships are created by the lack of an alley as well as physical and topographic constraints. The hardships are not economic. The detailing of the proposed porch and garage will be high quality and consistent with the historical character of the neighborhood.

(H) It may be denied where the alleged practical difficulties or unnecessary hardships resulted from an act of the applicant, or a person in privity or concert with the applicant.

**Response:**

1. The applicant purchased the property in October of 2012 and has not made any significant changes to structures on the property. The hardships mentioned above were not created by the applicant, but were created during the historic siting, construction, and modification of the property much of which occurred before the current zoning ordinances.

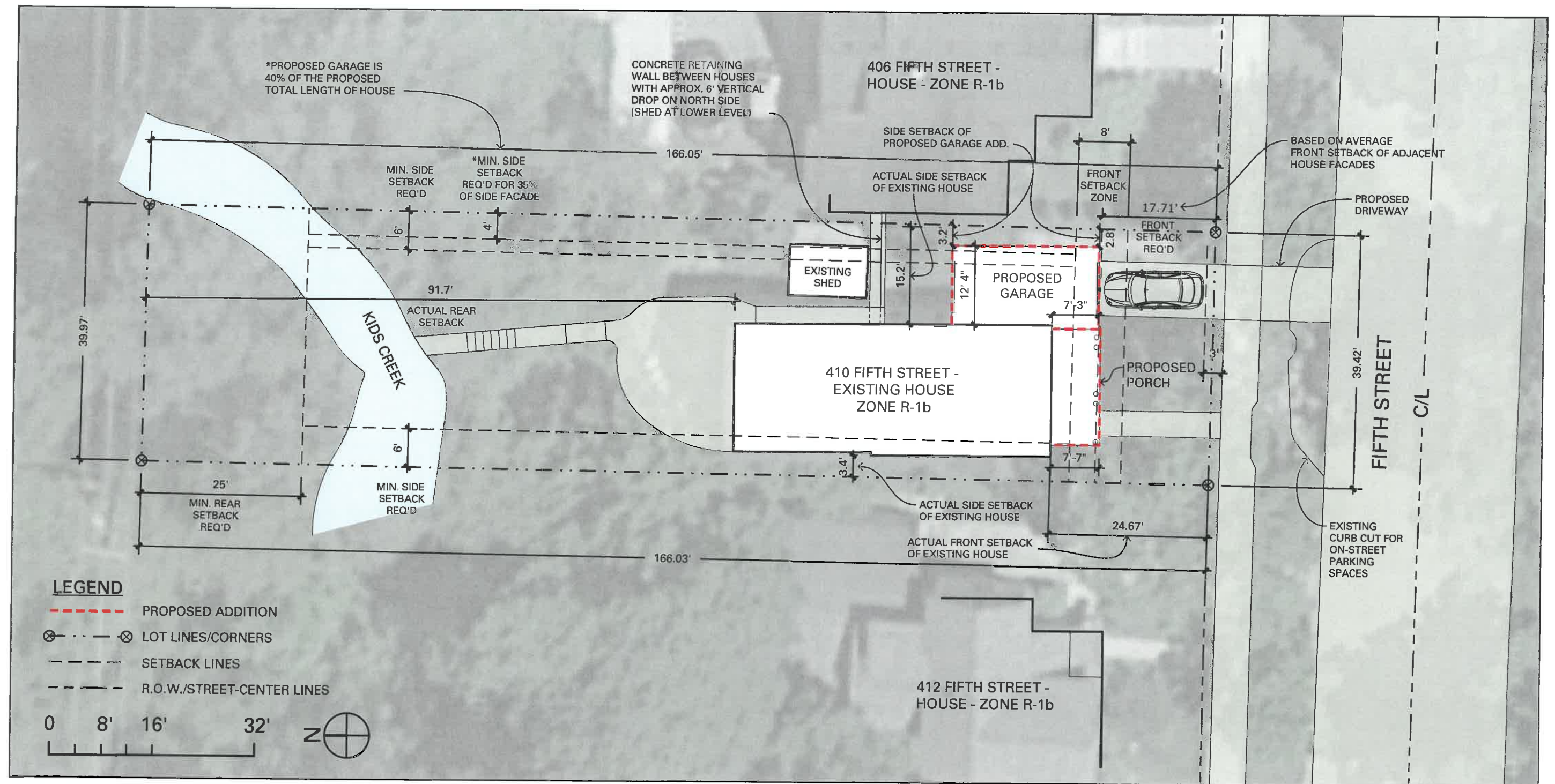
**(2) Practical difficulties and unnecessary hardships.** In order to determine if there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Zoning Code the following shall apply:

**(A) Dimensional variance.** A practical difficulty shall exist where there are exceptional or extraordinary circumstances or physical conditions, such as narrowness, shallowness, shape or topography of the property involved, that do not generally apply to other property or uses in the same zoning district.

**Response:**

1. A dimensional variance is sought due to exceptional and extraordinary circumstances and physical conditions of the property, including narrowness, topography, Kids Creek (and its floodplain), and the lack of an alley.





# 1 SITE PLAN

## A1

Scale: 1" = 16'-0"

410 FIFTH STREET, TRAVERSE CITY, MI 49685

LOTS 28 AND WEST 15 FEET OF LOT 27, BLOCK 3, HANNAH LAY & CO'S 10TH ADD., SECTION 3, T27N, R11W, CITY OF TRAVERSE CITY, GRAND TRAVERSE COUNTY, MI

TAX PARCEL I.D.: 51-654-006-00

### FRONT PORCH AND SINGLE-CAR GARAGE ADDITION FOR MARY BETH AND SCOTT LOWE

PREPARED BY: JEFFREY SCHWAIGER DESIGN  
10452 EAST EASLING DRIVE  
SUTTONS BAY, MI 49682  
T 231.735.2127  
E JEFFREY.SCHWAIGER@GMAIL.COM  
W JEFFREYSCHWAIGERDESIGN.COM

LOWE  
GARAGE AND FRONT  
PORCH ADDITION

SEPTEMBER  
20, 2015

A1





1 VIEW A - PROPOSED ADDITION  
A2 WITH COMPARISON TO EXISTING PHOTO

<p>LOWE</p> <p>GARAGE AND FRONT PORCH ADDITION</p>	
<p>SEPTEMBER 20, 2015</p>	<p>A2</p>





1  
A3

**VIEW B - PROPOSED ADDITION**  
WITH COMPARISON TO EXISTING PHOTO

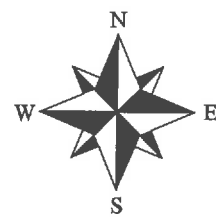
2  
A3

**VIEW C - PROPOSED ADDITION**  
WITH COMPARISON TO EXISTING PHOTO

<p>LOWE</p> <p>GARAGE AND FRONT PORCH ADDITION</p>	
<p>SEPTEMBER 20, 2015</p>	<p>A3</p>

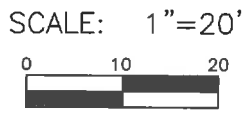


SITE PLAN



LEGEND

- = IRON (SET)
- = IRON (FND)
- ⊙ = MONUMENT (FND)
- = Utility Pole
- ⊙ = Cable Marker
- ⊠ = Gas Marker
- ⊠ = Utility Riser
- ↑ = Sign
- ← = Guy Anchor
- ☼ = Light Pole
- DHE- = Overhead Utility Lines
- GAS- = Underground Gas
- UGC- = Underground Cable
- x - = Fence



**Note(s):**  
-All setback and zoning information is subject to final township approval.  
-Grand Traverse Surveying & Mapping is not responsible for the location of any underground utilities or structures otherwise obstructed from view.

**GRAND TRAVERSE  
SURVEYING & MAPPING**  
PO Box 87  
Cedar, MI 49621  
Phone: 231-947-2555

Location:  
Part of Block 3, Hannah Lay & Co's 10th Add., Section 3, T27N, R11W, City of Traverse City, Grand Traverse County, MI

Client: Scott & Mary Beth Lowe

Date: 8/21/15    Job #: 15591    Drawn: ZSB    Sheet: 1 of 1

